

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

MIAMI VALLEY FAIR HOUSING
CENTER, INC., et al,

Plaintiffs,

vs.

STEINER + ASSOCIATES, INC.,
et al.,

Defendants.

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Case No. 3:08cv00150

District Judge Thomas M. Rose

Magistrate Judge Sharon L. Ovington

FIFTH REPORT AND RECOMMENDATIONS¹

On May 13, 2010, a First Report and Recommendations (Doc. #339) issued in this case, followed later by Second, Third, and Fourth Reports and Recommendations (Doc. #s 340, 350, 373). Each Report concluded, for the same reasons, that certain Third-Party Defendants' Motions to Dismiss or Motions for Judgment on the Pleadings were well taken. United States District Judge Thomas M. Rose has adopted each Report and Recommendations in its entirety and granted the pertinent Motions to Dismiss and Motions for Judgment on the Pleadings. (Doc. #s 371, 376).

A single non-dismissed Third-Party Defendant, Sullivan Builders, Inc., recently filed a Motion for Joinder of Third-Party Defendants' Motions to Dismiss (Doc. # 392),

¹ Attached hereto is a NOTICE to the parties regarding Objections to this Report and Recommendations.

to which no party has responded or opposed. Sullivan Builders, Inc. – finding itself in the same position as the other Third-Party Defendants – seeks joinder so it can raise the same arguments advanced by the other Third-Party Defendants. In the absence of a response or opposition by any party to the proposed joinder, and given the lack of prejudice to any party caused by allowing joinder, there is no reason to forbid Sullivan Builders, Inc. from joining the other Third-Party Defendants’ Motions to Dismiss.

With joinder thus permitted, Sullivan Builders, Inc.’s arguments in support of dismissal are well taken for the reasons set forth in the prior Decisions and Entries and the prior Reports and Recommendations.

IT IS THEREFORE RECOMMENDED THAT:

1. Third-Party Defendant Sullivan Builders, Inc.’s Motion for Joinder (Doc. #392) be GRANTED; and
2. Third-Party Defendant Sullivan Builders, Inc. be included as a party to the other Third-Party Defendants’ Motions to Dismiss and be likewise included in the dismissals effected by the prior Decisions and Entries (Doc. #s 371, 376).

September 15, 2010

s/ Sharon L. Ovington
Sharon L. Ovington
United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this Report and Recommendations. Pursuant to Fed. R. Civ. P. 6(d), this period is extended to seventeen days because this Report is being served by one of the methods of service listed in Fed. R. Civ. P. 5(b)(2)(C), (D), (E), or (F). Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendations are based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within fourteen days after being served with a copy thereof.

Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F.2d 947 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140 (1985).